

The complaint

Miss L has complained that PrePay Technologies Limited registered a marker against her at CIFAS, the national fraud database.

What happened

This complaint surrounds a Monese branded account.

In 2020, Miss L opened the account. It was then used to receive and pass on fraudulent funds. PrePay closed the account, returned the leftover money, and registered a marker against Miss L at CIFAS. They did not speak to her or investigate her side of things at the time. Miss L was a teenager.

Miss L came to our service. She explained she was vulnerable and had been living in an unsafe environment, having been kicked out of her home. She was befriended by a man who promised to look after her if she let him use her bank accounts. She explained that she opened this account for him and handed him the card, PIN, security details and so on. She said he assured her it was all for legitimate purposes, and she had grown to trust him. He was very controlling, he never told her where his money was coming from, and if she asked for too much information he'd get aggressive. Once her accounts got blocked, he said he couldn't help her anymore, and she realised she'd been taken advantage of. She said she never received any of the money herself.

Miss L also had another CIFAS marker with another bank. But after reviewing what had happened, that bank decided to remove their marker.

Our adjudicator looked into things independently and thought PrePay should remove their marker as well. PrePay didn't agree, so the complaint's been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I need to consider whether this report to CIFAS was made fairly. On this point, PrePay needed to have more than just a suspicion or concern. They need to be able to show that they had reasonable grounds to believe that Miss L had knowingly and intentionally been involved in fraud or financial crime, backed up by evidence rigorous enough to support this being reported to the authorities.

This is a finely balanced case. There is no debate that Miss L set up this account, and both sides now understand that the funds which passed through it were fraudulent. But Miss L explained that she didn't know what the man was using the account for at the time. So the question is whether PrePay have robustly evidenced that Miss L knew she was aiding a fraudster at the time, or whether she was manipulated into aiding a fraudster unwittingly.

CIFAS has guidance for cases such as this. It says: "*given that consumers can act as a money mule unwittingly... it is required that members provide consumers the opportunity to explain the conduct before filing to the National Fraud Database.*" It goes on to say that consumers should be given sufficient time to respond before making a submission to the fraud database, and that businesses should try more than one method of contact.

As far as I can see, PrePay did not investigate things with Miss L at the time or gather any detailed testimony or evidence from her. This is concerning. CIFAS markers can have severe effects, and must not be added without serious consideration. PrePay should know that both CIFAS and our service expect them to have investigated things with Miss L before adding this marker.

Because PrePay didn't investigate things properly with Miss L at the time, I don't have any contemporaneous testimony to compare her current testimony with. And relevant evidence from Miss L's side is no longer available, as she's since changed phones in the intervening years – which I can see given the change in her number. It's difficult to see how PrePay were satisfied that Miss L *intentionally* aided in fraud without properly looking into the matter or trying to clarify the situation first. So while I certainly accept that PrePay had grounds to be suspicious or concerned, I don't think they fulfilled the criteria of the evidence being so rigorous that they could confidently report Miss L to the authorities.

Miss L's story has been consistent and credible. What she's told us is plausible, and she's tried to back it up with evidence such as correspondence with other firms and evidence of her having to apply for shelter after being made homeless. I've not found any good reason to disbelieve her. And I can see that the other business involved decided to remove their marker in light of Miss L's side of things.

Having gone through the fraud reports, it looks like the scams involved were highly complex and technical. They would need to have been carried out by sophisticated fraudsters. It does not seem likely that they were the work of a homeless schoolgirl. Further, as far as I can see all the money involved was either forwarded to other accounts unrelated to Miss L, or was returned to the victims. I cannot see that Miss L benefitted from this herself. This all tends to support the possibility that Miss L was taken advantage of by opportunistic criminals as she said, as opposed to her being a witting participant in the fraud.

Lastly, I have not seen any other evidence which satisfies me that Miss L knew she was helping to pass on the proceeds of fraud.

So I accept that PrePay had good reasons to be suspicious or concerned about what happened with Miss L's account. I accept that they had good reasons to close the account. And I accept that I cannot categorically rule out the possibility that Miss L was knowingly and willingly helping to commit fraud. But I also cannot rule out that she was simply taken advantage of. I find that PrePay did not have enough evidence to meet the bar of recording a CIFAS marker against Miss L, not least given their lacking investigation at the time. And the default position is that without such rigorous evidence, the marker should be removed. So while I am fully conscious of the possibility that Miss L could have knowingly and willingly tried to aid a crime, I think the risk of Miss L being an innocent party is too great to justify this CIFAS marker remaining.

It follows that I think the marker should now be removed. I don't plan to make any award of compensation, since – as I noted above – I think PrePay had good reasons to be suspicious or concerned and I don't think they acted entirely unreasonably. I also hope that Miss L is aware of how close she came to having this marker remain for the full period, and of being reported to the authorities. I hope that she will keep this in mind and make sure to avoid any similar situations in future.

Putting things right

I direct PrePay Technologies Limited to remove the CIFAS marker in dispute.

My final decision

For the reasons I've explained, I uphold Miss L's complaint, and direct PrePay Technologies Limited to remove the disputed marker.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 1 November 2022.

Adam Charles
Ombudsman